

usually acquired by purchase, when the matter is dealt with by contract of sale, investigation of title, and conveyance in the ordinary way.

By way of divergence it may be stated here that personal representatives and trustees may now sell the surface of land apart from the minerals, or *vice versa*, without any special power. Prior to 1926 trustees had to obtain the leave of the court, but even before 1926 executors or administrators could sell any mines and minerals apart from the surface without any special power. A beneficial owner can, of course, divide lands and mines in any way he chooses. As regards mortgagees, if the mortgage was executed *after* 1911 they may, in the exercise of their statutory power of sale, sell the mortgaged property or all or any mines and minerals apart from the surface, but if the mortgage was created *before* 1912 the power of sale does not enable them to sell the surface and mines apart, but the court may authorise them to do so. A tenant for life may sell land with an exception of mines and minerals, and, as stated elsewhere, may grant mining leases.

Where the mines are excepted, it is important to remember that the vendor (i.e. the person retaining the ownership of the mines) has no right in working the excepted minerals to let

down the
surface (i.e. cause subsidence) unless
the convey-
ance either in express terms or by
necessary
implication authorises him to do so.
Even the
power taken in the conveyance of
"working,
getting and carrying away" the mines
is not
sufficient to take away the surface
owner's right
to have his surface undisturbed. It is,
however,
almost impossible (unless they are at
great depth)